

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3231-01
Bill No.: SB 663
Subject: State Attorney General; Elections; Ethics; Political Parties; Telecommunications
Type: Original
Date: February 19, 2010

Bill Summary: Modifies the state do-not-call list and creates “paid for by” requirements for political phone calls.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$48,551)	(\$59,752)	(\$61,546)
Total Estimated Net Effect on General Revenue Fund	(\$48,551)	(\$59,752)	(\$61,546)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections** and **Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Missouri Ethics Commission (MEC)** assume requiring the proper identification of sponsor for a political solicitation, radio advertisements, and requiring the registration with the MEC of any committee making solicitations under this provision would require the following of the MEC:

- Provide information to public officials and the public as specified in the MEC duties in Section 105.491, 105.955.14 (4), RSMo, about the new statutory requirements; examples include providing education, developing informational materials, telephone and email assistance. It is anticipated the MEC can conduct these duties with current resources.
- It is not clear if the MEC's statutory requirements to review, and audit as established in Section 105.955.14 (2), (3), RSMo apply; the MEC's assumption for purposes of this fiscal note, is they do not apply. However, additional resources, at a minimum 1 additional Business Analyst would be required, should these requirements apply to the MEC.
- Respond to written complaints, as established in Section 105.955.14, RSMo, through conducting investigations and the related legal actions. Based off the number of final MEC actions taken related to the current campaign finance material identification requirements, the MEC anticipates potentially a significant increase in complaints received and investigations conducted related to these 'paid for by' provisions.

The proposed legislation would require the proper identification of sponsor for a political solicitation, radio advertisements, and requiring the registration with the MEC of any committee making solicitations. The implementation of the above responsibilities would require the following additional resources:

ASSUMPTION (continued)

- One FTE Commission Investigator (at \$49,104 per year) to perform the necessary investigative work and assist legal preparation. The current MEC investigative resources would not allow for conducting any substantial increase in complaints.

The MEC would anticipate that changes or additions to the proposed language set forth in this bill may require additional associated costs for FTE, equipment, and expenses.

MEC estimates the total cost of the proposal to be approximately \$66,000 in FY 2011 and approximately \$81,000 in subsequent years.

Oversight has, for fiscal note purposes only, changed the starting salary for the Investigator II position to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials from the **Office of Prosecution Services** assume the proposal would have no measurable fiscal impact the Office of Prosecution Services or county prosecutors.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Costs – Missouri Ethics Commission</u>			
Personal Service	(\$30,859)	(\$38,141)	(\$39,286)
Fringe Benefits	(\$16,182)	(\$20,001)	(\$20,602)
Equipment and Expense	<u>(\$1,510)</u>	<u>(\$1,610)</u>	<u>(\$1,658)</u>
<u>Total Costs – MEC</u>	<u>(\$48,551)</u>	<u>(\$59,752)</u>	<u>(\$61,546)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$48,551)</u>	<u>(\$59,752)</u>	<u>(\$61,546)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2011 (10 Mo.)	 FY 2012	 FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation expands eligibility on the state's no-call list to include personal cell phone numbers. Current law prohibits certain types of telephone solicitations to persons on the no-call list. This proposal additionally prohibits these same types of solicitations via faxing, graphic imaging, or data communication (which includes text messaging).

The proposal also adds automated phone calls to the types of calls prohibited to individuals who sign up on the no-call list. Certain automated calls are exempt.

FISCAL DESCRIPTION (continued)

Entities that make automated calls shall not block their number from appearing on any caller identification service. Automatic dialing announcing devices are prohibited from being used to call Missourians' personal phones unless the device will disconnect within 10 seconds of the receiver hanging up. In addition to other penalties as described, violators of these provisions may be subject to penalties associated with certain unlawful merchandising practices.

Violators of this act may be subject to a civil penalty up to \$5,000 per knowing violation. Individuals who receive more than one automated call from the same entity in any twelve-month period in violation of this act may bring action to cease the calls and recover actual monetary loss or damages. A two-year statute of limitations exists on bringing suit for violations of this act. It shall not be considered a violation of the act for an automated call message to be left on the answering machine or voice mail of a person whose number is registered on the no-call list, provided that the automated message is announced by a live operator.

The proposal also requires that anyone making a political phone call to a Missouri resident must include a "paid for by" statement. A committee making political phone calls must be registered with the Missouri Ethics Commission. Businesses and other non-committee organizations making political phone calls must register with the Secretary of State and the Missouri Ethics Commission and must disclose on whose behalf the organization is making the calls. Records must be kept for 2 years after the date an organization receives payment for political solicitation services rendered.

Entities that give out the phone number of an elected official in a political radio advertisement must register with the Missouri Ethics Commission and disclose who is paying for the advertisement.

The Secretary of State shall provide a summary of the political phone call requirements to any candidate who files for an elective office.

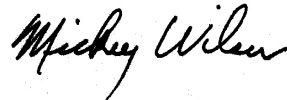
Violations of the political-related solicitations may be referred to the Missouri Ethics Commission.

The proposal repeals Section 407.1110, which required the Attorney General to create a no-call consumer education advisory group as well as conduct certain no-call outreach and education activities.

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of State Courts Administrator
Department of Corrections
Missouri Ethics Commission
Office of Prosecution Services
Office of the Secretary of State
Office of the State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
February 19, 2010